TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD	§	
vs.	§	DOCKETED COMPLAINT NO. 06-171
ERIC T. DIVJAK TX-1328673-R	§	

AGREED FINAL ORDER

On this the 27th day of June, 2008, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Eric T. Divjak (Respondent).

In order to conclude this matter, Eric T. Divjak neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent Eric T. Divjak is a Texas state certified residential real estate appraiser, holds certification number TX-1328673-R, and has been certified by the Board during all times material to the above-noted complaint case.

2. On or about April 18th, 2006, Respondent appraised real property located at 20214 Chateau Bend Drive, Katy, Texas 77450 ("the property").

3. On or about June 12th, 2006, the Complainant, Nelda Kinsey, filed a complaint with the Board. The complaint alleged that the appraisal report contained various violations of the Uniform Standards of Professional Appraisal Practice ("USPAP").

4. On or about November 27th, 2007 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent's response to the complaint was received.

5. Respondent violated TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property.

a) Respondent communicated a misleading appraisal report for the property by certifying that he had inspected the interior and exterior of the property when he had not done so;

b) Respondent incorrectly identified the site description by erroneously indicating the property was located in Harris County when it is actually located in Fort Bend County;

c) Respondent failed to correctly report any anticipated public and private improvements located on or off the site;

d) Respondent failed to provide a brief statement of his determination of the property's highest and best use;

e) Respondent failed to analyze a prior sale of the property;

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule; USPAP Standards Rules: 1-2(e)(i) & 2-2(b)(iii); 1-4(f) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix);1-5(b) & 2-2(b)(viii); 1-1(b) and, 2-3 & 2-2(b)(xii).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omissions of material facts.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

a. Have his certification suspended for twelve months with this suspension being fully probated under the following conditions:

   i. Respondent shall timely remit payment of the administrative penalty, and timely complete all of the remedial coursework required in this Order;

b. Attend and complete a minimum, 15 classroom-hour course in USPAP;

c. Pay to the Board an administrative penalty of $2,000.00; and,

d. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **NINE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational

requirements of this Order shall be delivered to the Board on or before the end of the nine-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered within **TWENTY DAYS** of the date of this Agreed Final Order.

Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518, including, but not limited to possible revocation of the above-noted probated suspension.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published in the Board's newsletter and/or on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 16 day of June, 2008.

ERIC T. DIVJAK

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 16 day of June, 2008, by ERIC T. DIVJAK, to certify which, witness my hand and official seal.

Mary K. Wiley
Notary Public Signature

Mary K. Wiley
Notary Public's Printed Name

MARY K. WILEY
Notary Public, State of Texas
My Commission Expires
April 13, 2011

Signed by the Commissioner this 27th day of June, 2008.

Timothy K. Irvine, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 27th day of JUNE, 2008.

Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board